

## **3401.501**

### **Subpart 3401.5—Agency and Public Participation**

#### **3401.501 Solicitation of agency and public views.**

#### **3401.501-2 Opportunity for public comments.**

Unless the Secretary of Education (Secretary) approves an exception, the Department issues the EDAR, including any amendments to the EDAR, in accordance with the procedures for public participation in 5 U.S.C. 553.

### **Subpart 3401.6—Contracting Authority and Responsibilities**

#### **3401.601 General.**

Contracting authority vests with the Secretary. The Secretary has delegated this authority to the Deputy Under Secretary for Management who has delegated this authority, with the right to redelegate, to the Procurement Executive and the HCA.

## **PART 3402—DEFINITIONS OF WORDS AND TERMS**

### **Subpart 3402.1—Definitions**

Sec.

3402.101 [Reserved]

#### **Subpart 3402.2—Definitions Clause**

3402.201 Contract clause.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c), unless otherwise noted.

### **Subpart 3402.1—Definitions**

3402.101 [Reserved]

#### **Subpart 3402.2—Definitions Clause**

##### **3402.201 Contract clause.**

The contracting officer shall insert the clause in 3452.202-1, Definitions, in all solicitations and contracts in lieu of the clause in FAR 52.202-1, except—

(a) A fixed-price research and development contract that is expected to be \$2,500 or less; or

(b) A purchase order.

[53 FR 19119, May 26, 1988]

## **48 CFR Ch. 34 (10-1-10 Edition)**

## **PART 3403—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST**

### **Subpart 3403.1—Safeguards**

Sec.

3403.101 Standards of conduct.

3403.101-3 Agency regulations.

#### **Subpart 3403.2—Contractor Gratuities To Government Personnel**

3403.203 Reporting suspected violations of the Gratuities clause.

#### **Subpart 3403.3—Reports of Suspected Antitrust Violations**

3403.301 General.

#### **Subpart 3403.4—Contingent Fees**

3403.409 Misrepresentations or violations of the Covenant Against Contingent Fees.

#### **Subpart 3403.6—Contracts With Government Employees or Organizations Owned or Controlled by Them**

3403.602 Exceptions.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c)

SOURCE: 53 FR 19120, May 26, 1988, unless otherwise noted.

### **Subpart 3403.1—Safeguards**

3403.101 Standards of conduct.

3403.101-3 Agency regulations.

ED regulations on standards of conduct are in 34 CFR part 73.

#### **Subpart 3403.2—Contractor Gratuities to Government Personnel**

3403.203 Reporting suspected violations of the Gratuities clause.

(a) Suspected violations of the Gratuities clause must be reported to the HCA in writing detailing the circumstances.

(b) The HCA evaluates the report with the assistance of the Designated Agency Ethics Officer. If the HCA determines that a violation may have occurred, the HCA refers the report to the Procurement Executive for disposition.

## Department of Education

3405.270

### Subpart 3403.3—Reports of Suspected Antitrust Violations

#### 3403.301 General.

(a) [Reserved]

(b) Any Departmental personnel who have evidence of a suspected antitrust violation in an acquisition shall—

(1) Report that evidence through the HCA to the Office of the General Counsel for referral to the Attorney General; and

(2) Provide a copy of that evidence to the Procurement Executive.

### Subpart 3403.4—Contingent Fees

#### 3403.409 Misrepresentations or violations of the Covenant Against Contingent Fees.

Any Departmental personnel who suspect or have evidence of attempted or actual exercise of improper influence, misrepresentation of a contingent fee arrangement, or other violation of the Covenant Against Contingent Fees, shall report the matter promptly in accordance with the procedures in 3403.203.

### Subpart 3403.6—Contracts With Government Employees or Organizations Owned or Controlled by Them

#### 3403.602 Exceptions.

Exceptions under FAR 3.602 must be approved by the Deputy Under Secretary for Management.

## PART 3404—ADMINISTRATIVE MATTERS

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

### Subpart 3404.1—Contract Execution

#### 3404.170 Ratification of unauthorized contract awards.

The execution of otherwise proper contracts made by individuals without contracting authority, or by contracting officers acting in excess of the limits of their delegated authority, may be later ratified by the Depart-

ment. To be effective, a ratification must be—

(a) A written document clearly stating that ratification of a previously unauthorized act is intended; and

(b) Signed by the HCA, or higher level official of the Department, who could have granted authority to enter into the commitment at the time it was made and still has the power to do so.

[53 FR 19120, May 26, 1988]

## PART 3405—PUBLICIZING CONTRACT ACTIONS

### Subpart 3405.2—Synopsis of Proposed Contract Actions

Sec.

3405.270 Notices to perform market surveys.

#### Subpart 3405.5—Paid Advertisements

3405.502 Authority.

AUTHORITY: 5 U.S.C. 301; 40 U.S.C. 486(c).

### Subpart 3405.2—Synopsis of Proposed Contract Actions

3405.270 Notices to perform market surveys.

(a) If a sole-source contract is anticipated, the issuance of a notice of a proposed contract action that is detailed enough to permit submission of meaningful responses and subsequent evaluation of the responses by the Government, constitutes an acceptable market survey.

(b) The notice must include—

(1) A clear statement of the supplies or services to be procured;

(2) Any capabilities or experience required of a contractor and any other factors relevant to those requirements; and

(3) The criteria, including relative weights, to be used in the evaluation of responses.

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